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DEPARTMENT OF COMMERCE

International Trade Administration

(C-570-980)

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has completed its administrative review of the countervailing duty (CVD) order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (the PRC) for the period of review (POR) covering March 26, 2012, through December 31, 2012. On January 8, 2015, we published the preliminary results of this review and the post-preliminary results were completed on April 21, 2015.¹

We provided interested parties with an opportunity to comment on the *Preliminary Results* and Post-Preliminary Results. Our analysis of the comments submitted resulted in a change to the net subsidy rates for Lightway Green New Energy Co., Ltd. (Lightway), and for Shanghai BYD Co., Ltd. (Shanghai BYD), Shangluo BYD Industrial Co., and BYD Company Ltd. (collectively, the BYD Group). The final net subsidy rates are listed below in the section entitled, "Final Results of the Review."

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2012; and Partial Rescission of Countervailing Duty Administrative Review*, 80 FR 1019 (January 8, 2015) (*Preliminary Results*); see also Department Memorandum, "Post-Preliminary Analysis in the Countervailing Duty Administrative Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China," (April 21, 2015) (*Post-Preliminary Results*).

Withdrawals of certain requests for review were timely filed by SolarWorld Industries America Inc. (Petitioner) and the BYD Group. As a result, we rescinded this administrative review with respect to certain companies, pursuant to 19 CFR 351.213(d)(1), and proceeded with the review of Lightway and Shanghai BYD, and other companies not selected for individual review.²

DATES: Effective Date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Gene Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3586.

SUPPLEMENTARY INFORMATION:

Background

Following the *Preliminary Results* and Post-Preliminary Results, from March 11 through March 18, 2015, the Department conducted verification of the questionnaire responses submitted by the Government of the PRC (the GOC), Lightway, and the BYD Group. The verification reports were released between April 2 and April 6, 2015.³ We received case briefs from interested parties on April 30, 2015.⁴ On May 7, 2015, interested parties submitted their rebuttal briefs.⁵ No hearing was held in this case as the only timely hearing request was withdrawn.⁶

² See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Notice of Correction to Preliminary Results of Countervailing Duty Administrative Review; 2012 and Partial Rescission of Countervailing Duty Administrative Review*, 80 FR 8597 (February 18, 2015) at Appendix II.

³ See Department Memoranda, "Verification of the Questionnaire Responses Submitted by Lightway Green New Energy Co., Ltd.," (April 2, 2015); "Verification of the Questionnaire Responses Submitted by Shanghai BYD Co., Ltd.," (April 3, 2015); "Verification of the Questionnaire Responses Submitted by the Government of the People's Republic of China," (April 6, 2015).

⁴ See Letter to the Secretary from SolarWorld Americas, Inc. (Petitioner), "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Case Brief," (April 30, 2015);

Scope of the Order

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

A full description of the scope of the order is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the

Letter from the GOC, “GOC Administrative Case Brief: First Administrative Review of the Countervailing Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or not Assembled Into Modules from the People’s Republic of China (C-570-980),” (April 30, 2015); Letter from the BYD Group, “Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules, from the People’s Republic of China – 2012 Review: Case Brief,” (April 30, 2015); Letter from Lightway, “Crystalline Silicon Photovoltaic Cells from P.R. China: Case Brief,” (April 30, 2015).

⁵ See Letter to the Secretary from Petitioner, “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Rebuttal Brief,” (May 7, 2015); Letter from the GOC, “GOC Rebuttal Brief: First Administrative Review of the Countervailing Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or not Assembled into Modules from the People’s Republic of China (C-570-980),” (May 7, 2015); Letter from Shanghai BYD, “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China – 2012 Review: Rebuttal Brief,” (May 7, 2015); Letter from Lightway, “Crystalline Silicon Photovoltaic Cells from P.R. China: Rebuttal Case Brief,” (May 7, 2015); Letter from Goal Zero, LLC (a U.S. importer of subject merchandise), “Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules from the People’s Republic of China; Rebuttal Brief of Goal Zero, LLC,” (May 7, 2015).

⁶ See Letter to the Secretary from Shanghai BYD, “Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules, From the People’s Republic of China: Shanghai BYD Co., Ltd. Request for Hearing,” (February 9, 2015); *see also* Letter to the Secretary from Shanghai BYD, “Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules, from the People’s Republic of China – 2012 Review: Withdrawal of Hearing Request,” (May 11, 2015).

People's Republic of China," (Final Decision Memorandum), dated concurrently with this notice, and hereby adopted by this notice.

Analysis of Comments Received

All issues in the case briefs are addressed in the Final Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I. The Final Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/enforcement/>. The signed Final Decision Memorandum and the electronic version of the Final Decision Memorandum are identical in content.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.*, a financial contribution from an "authority" that confers a benefit to the recipient, and that the subsidy is specific.⁷ For a full description of the methodology underlying our conclusions, *see* the Final Decision Memorandum.

In making these findings, we relied, in part, on facts available and, because the GOC and Lightway did not act to the best of their ability in responding to the Department's requests for information, we drew an adverse inference in selecting from among the facts otherwise

⁷ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5)(A) of the Act regarding specificity.

available.⁸ For further information, *see* the section, “Use of Facts Otherwise Available and Adverse Inferences,” in the Final Decision Memorandum.

Final Results of the Review

In accordance with 19 CFR 351.221(b)(5), we determine a net countervailable subsidy rate of 23.28 percent *ad valorem* for Lightway, and a net countervailable subsidy rate of 15.43 percent *ad valorem* for the BYD Group.

For non-reviewed companies that are subject to this administrative review (see Appendix II), because the rates calculated for Lightway and the BYD Group were above de minimis and not based entirely on facts available, we applied a subsidy rate based on a weighted-average of the subsidy rates calculated for Lightway and Shanghai BYD using publicly-ranged sales data submitted by the company respondents so as to avoid disclosure of proprietary information. The subsidy rate for these non-reviewed companies is 20.94 percent.

Assessment Rates

The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results, to liquidate shipments of subject merchandise by Lightway and the BYD Group entered, or withdrawn from warehouse, for consumption on or after March 26, 2012, through December 31, 2012.

Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated CVDs in the amount shown above for shipment of subject merchandise by Lightway and the BYD Group entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed companies that are subject to

⁸ *See* sections 776(a) and (b) of the Act.

this administrative review, we will instruct CBP to collect cash deposits based on the weighted-average of Lightway's and the BYD Group's calculated subsidy rates using publicly ranged sales data submitted by the company respondents, pursuant to section 777A(e)(2)(A) of the Act. A list of the non-reviewed companies that are subject to this administrative review is attached as Appendix II to this notice.

For non-reviewed firms that are not subject to this administrative review, we will instruct CBP to collect cash deposits of estimated CVDs at the most recent company-specific or all-others rate applicable to the company. Accordingly, the cash deposit requirements that will be applied to companies covered by this order, but not subject to this review, are those established in the investigation for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 7, 2015.

Paul Piquado,
Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Partial Rescission of the 2012 Administrative Review
- V. Companies Not Selected for Individual Review
- VI. Subsidies Valuation Information
- VII. Use of Facts Otherwise Available and Adverse Inferences
- VIII. Analysis of Programs
- IX. Analysis of Comments

- Comment 1: Whether the Ex-Im Bank Buyer's Credit Program is Countervailable
- Comment 2: Whether the Department Should Continue to Apply AFA in Determining Whether to Use an Internal or External Benchmark
- Comment 3: Whether the Provision of Aluminum Extrusions at LTAR is Specific
- Comment 4: Whether the Department Should Adjust the Polysilicon Benchmark for the Final Results
- Comment 5: Whether the Department Should Remove Certain Polysilicon Purchases Regarding the Polysilicon for LTAR Benefit Calculation with Respect to Lightway
- Comment 6: Whether the Department Should Find the BYD Group to be Uncreditworthy During 2008, 2011, and 2012
- Comment 7: Whether the Department Should Revise the Benefit Calculation Regarding the BYD Group's Loans
- Comment 8: Whether the Department Should Find the Subsidies Discovered at Lightway's Verification to be Countervailable
- Comment 9: Whether the Department Should Revise Lightway's Benefit Calculation to Remove Certain Transactions Regarding the Preferential Policy Lending Program
- Comment 10: Whether the Department Should Revise the Principal Amounts with Respect to Certain Lightway Loans
- Comment 11: Whether the Department Should Revise the Rate for the Non-Selected Companies for these Final Results

- X. Recommendation

Appendix II

Companies Not Selected for Individual Review

1. Baoding Jiansheng Photovoltaic Technology Co., Ltd.
2. Boading Tianwei Yingli New Energy Resources Co., Ltd.
3. Beijing Tianneng Yingli New Energy Resources Co. Ltd.
4. Canadian Solar International Limited
5. Canadian Solar Manufacturing (Changshu) Inc.
6. Canadian Solar Manufacturing (Luoyang) Inc.
7. Changzhou NESL Solartech Co., Ltd.
8. Changzhou Trina Solar Energy Co., Ltd.
9. Chint Solar (Zhejiang) Co., Ltd.
10. CSG PVTech Co., Ltd.
11. DelSolar Co., Ltd.
12. De-Tech Trading Limited HK
13. Dongfang Electric (Yixing) MAGI Solar Power Technology Co., Ltd.
14. Eoply New Energy Technology Co., Ltd.
15. Era Solar Co., Ltd.
16. ET Solar Energy Limited.
17. Hainan Yingli New Energy Resources Co., Ltd.
18. Hangzhou Zhejiang University Sunny Energy Science and Technology Co. Ltd.
19. Hendigan Group Dmegc Magnetics
20. Hengshui Yingli New Energy Resources Co., Ltd.
21. Himin Clean Energy Holdings Co., Ltd.
22. Innovosolar
23. Jiangsu Green Power PV Co., Ltd.
24. Jiangxi Sunlink PV Technology Ltd.
25. Jiangsu Jiasheng Photovoltaic Technology Co., Ltd.
26. Jiangsu Sunlink PV Technology Co., Ltd.
27. Jiawei Solarchina Co. Ltd.
28. Jinko Solar Co., Ltd.
29. Jinko Solar Import and Export Co., Ltd.
30. Jinko Solar International Limited
31. Konca Solar Cell Co., Ltd.
32. Kuttler Automation Systems (Suzhou) Co. Ltd.
33. LDK Solar Hi-tech (Suzhou) Co., Ltd.
34. LDK Solar Hi-tech (Nanchang)
35. Leye Photovoltaic Science & Technology Co., Ltd.
36. Lixian Yingli New Energy Resources Co., Ltd.
37. Luoyang Suntech Power Co., Ltd.
38. Magi Solar Technology
39. Motech (Suzhou) Renewable Energy Co., Ltd.
40. MS Solar Investments LLC
41. Ningbo Ulica Solar Science & Technology Co., Ltd.
42. Ningbo Qixin Solar Electrical Appliance Co. Ltd.

43. Ningbo ETDZ Holdings Ltd.
44. Perligh Solar Co., Ltd.
45. ReneSola
46. Renesola Jiangsu Ltd.
47. Shenzen Topray Solar Co., Ltd.
48. Shanghai Machinery Complete Equipment (Group) Corp., Ltd.
49. Shenglong PV Tech.
50. Shenzhen Suntech Power Co., Ltd.
51. ShunFeng PV
52. Solarbest Energy—Tech (Zhejiang) Co., Ltd.
53. Sopray Energy
54. Sumec Hardware & Tools Co., Ltd.
55. Sun Earth Solar Power Co., Ltd.
56. Suntech Power Co., Ltd.
57. Suzhou Shenglong PV-Tech Co., Ltd.
58. Tianwei New Energy (Chengdu) PV Module Co., Ltd.
59. Tianjin Yingli New Energy Resources Co, Ltd.
60. Trina Solar (Changzhou) Science & Technology Co, Ltd.
61. Topray
62. Upsolar Group, Co. Ltd.
63. Wanxiang Import & Export Co., Ltd.
64. Wuxi Sunshine Power
65. Wuxi Suntech Power Co., Ltd.
66. Yangzhou Rietech Renewal Energy Co., Ltd.
67. Yangzhou Suntech Power Co., Ltd.
68. Yingli Energy (China) Company Limited.
69. Yingli Green Energy International Trading Company Limited.
70. Zhejiang Jiutai New Energy Co. Ltd.
71. Zhejiang Shuqimeng Photovoltaic Technology Co., Ltd.
72. Zhejiang Xinshun Guangfu Science and Technology Co., Ltd.
73. Zhejiang ZG-Cells Co, Ltd.
74. Zhenjiang Rietech New Energy Science & Technology Co., Ltd.
75. Zhiheng Solar Inc.
76. Zhejiang Sunflower Light Energy Sciences & Technology Limited Liability Company